

REMARKS/ARGUMENTS

Claims 1-32 were previously pending in the application. Claims 2-3 are canceled; and claims 1, 4-5, 12-13, 21-22, 25, and 31 are amended herein. Assuming the entry of this amendment, claims 1 and 4-32 are now pending in the application. The Applicant hereby requests further examination and reconsideration of the application in view of the foregoing amendments and these remarks.

In paragraph 2 of the office action, the Examiner rejected claims 4-5 and 21 under 35 U.S.C. 112, second paragraph, as being indefinite. In response:

- o The Applicant has amended claims 4 and 21 to recite the "rear" and "front" surfaces instead of the "first" and "other" surfaces, respectively;
- o The Applicant has amended claims 5 and 21 to recite "a hook-and-loop material" instead of "Velcro material"; and
- o The Applicant has amended claim 21 to recite "the container" instead of "the tote."

The Applicant submits therefore that the rejections of claims under Section 112, second paragraph, have been overcome.

In paragraph 4, the Examiner rejected claims 1-2, 6, and 11-13 under 35 U.S.C. 102(b) as being anticipated by Young. In paragraph 5, the Examiner rejected claims 1-2, 6, 11, 15, and 20 under 35 U.S.C. 102(b) as being anticipated by Francois. In paragraph 6, the Examiner rejected claims 1-2, 4-5, 8-11, 17, and 22 under 35 U.S.C. 102(b) as being anticipated by Hanson. In paragraph 8, the Examiner rejected claims 3, 15-16, 18-19, and 23-24 under 35 U.S.C. 103(a) as being unpatentable over Hanson. In paragraph 9, the Examiner rejected claims 6-8, 14, and 21 under 35 U.S.C. 103(a) as being unpatentable over Hanson in view of Casparian. In paragraph 10, the Examiner rejected claims 25-32 under 35 U.S.C. 103(a) as being unpatentable over Hanson in view of Casparian and further in view of Hancock. For the following reasons, the Applicant submits that all of the now-pending claims are allowable over the cited references.

Support for the amendments to claim 1 are found in original (now canceled) claims 2-3; on page 6, lines 12-19, of the specification; and in Fig. 1. According to currently amended claim 1, the front surface of the container includes a diamond-shaped opening, where the diamond-shaped opening is positioned near the center of the front surface and oriented such that a first line defined by a first pair of opposing corners of the diamond-shaped opening is substantially parallel to top and bottom edges of the front and rear surfaces, the diamond-shaped opening being adapted for accessing tie wraps that are carried in the pocket. Moreover, the diamond-shaped opening in the front surface has a size, shape, orientation, and position that enable a tie wrap oriented substantially perpendicular to the first line to be efficiently removed from the pocket by a person reaching into the pocket through the diamond-shaped opening with a thumb and finger oriented corresponding to the first pair of opposing corners of the diamond-shaped opening, grabbing the tie wrap along its length, and pulling the tie wrap through the diamond-shaped opening such that the tie wrap deforms from its normally linear configuration into a folded configuration oriented corresponding to the other pair of opposing corners of the diamond-shaped opening, such that other tie wraps remain within the pocket.

Original claim 3, which recited that "the opening is diamond-shaped," was rejected under 35 U.S.C. 103(a) based only on Hanson. In rejecting original claim 3 under 35 U.S.C. 103(a), the Examiner essentially admitted that Hanson does not teach a diamond-shaped opening. Nevertheless, the Examiner

stated that it would "have been obvious to one having ordinary skill in the art at the time was made to make the opening being diamond-shaped, ... since such modification would have involve a mere change of a matter of obvious design choice for shapes."

The Applicant submits that the use of a diamond-shaped opening is not an obvious design choice. Rather, as evidenced by the accompanying Declaration under 37 CFR 1.132, the Applicant submits that using a diamond shape for the opening provides certain advantages over other shapes, some of which advantages were unexpected.

One goal in designing an opening for the claimed tie-wrap container is to enable a person, e.g., a grown man, to efficiently remove a single tie wrap from a container containing multiple tie wraps when that container is secured, e.g., to the person's belt. There are at least four different parameters that need to be selected in designing such an opening: (1) the position of the opening on the surface of the container, (2) the size of the opening relative to the size of the container, (3) the shape of the opening, and (4) for non-circular openings, the orientation of the opening with respect to the container.

According to currently amended claim 1, (1) the opening in the claimed container is positioned near the center of the front surface of the container, (2) the opening is big enough to enable a person to reach into the pocket through the opening, but small enough to retain the tie wraps within the pocket, (3) the opening has a diamond shape, and (4) the opening is oriented substantially as shown in Fig. 1 with respect to the container.

Hanson and other cited references teach containers having openings, but none of them teaches or even suggests a container having an opening with the particular position, size, shape, and orientation explicitly recited in currently amended claim 1. In particular:

- o Hanson teaches a container having an opening that is positioned at the bottom surface of a six-sided, rectilinear container, where the opening has the particular shape and orientation shown in Hanson's Fig. 1, which shape and orientation are very different from the shape and orientation of the opening of currently amended claim 1;
- o Young teaches a container having a circular opening;
- o Francois teaches containers having either a circular segment-shaped opening located at an edge of the container as in Figs. 4-6 or a circular opening as in Fig. 7; and
- o Hancock teaches a cylindrical container having a cylindrical rectangle-shaped opening oriented with the longitudinal axis of the cylindrical container.

These references, whether considered separately or together, do not teach the combination of features explicitly recited for the opening in the container of currently amended claim 1.

Initially, the Applicant built tie-wrap container prototypes having circular and oval openings as well as those having a shape and orientation such as that shown in Fig. 1. In addition to being less expensive to manufacture than a circular or oval opening, the Applicant unexpectedly discovered that a reinforced diamond-shaped opening was actually more durable than a comparable reinforced circular or oval opening. In particular, after similar repeated use in removing individual tie wraps from the container prototypes over an equivalent period of time, there was less wear-and-tear to the materials used to reinforce a diamond-shaped opening than there was to the same type of materials used to reinforce a circular opening or an oval opening.

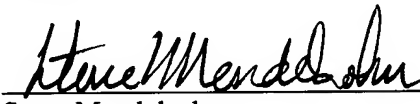
Moreover, the recited diamond shape, size, position, and orientation of the opening contributes to the effectiveness of the opening in enabling a person, especially a grown man, to reach with a thumb and finger through the opening into the container and remove one -- and only one -- tie wrap at a time, while preventing the remaining tie wraps from falling out of the container while the container is, for example, worn on the person's belt. In particular, the diamond shape and orientation assist in the deforming of a tie wrap from its normally linear configuration into a folded configuration as the tie wrap is being pulled through the opening by the person grabbing the tie wrap along its length. This "assistance" may also account for the added durability of the diamond shape over a circle or an oval.

For all these reasons, the Applicant submits that claim 1 is allowable over Hanson and the other cited references. For similar reasons, the Applicant submits that claims 21-22, 25, and 31 are allowable over the cited references. Since the rest of the claims depend variously from claims 1, 22, 25, and 31, it is further submitted that those claims are also allowable over the cited references. The Applicant submits therefore that the rejections of claims under Sections 102(b) and 103(a) have been overcome.

In view of the above amendments and remarks, the Applicant believes that the now-pending claims are in condition for allowance. Therefore, the Applicant believes that the entire application is now in condition for allowance, and early and favorable action is respectfully solicited.

Respectfully submitted,

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